

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Health Services v.

~~David Voegtle, R.N., License No. R30319~~

53 Foster Street

Middlebury, CT 06762

CASE PETITION NO. 890817-10-033

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Health Services (hereinafter the "Department") with a Motion For Summary Suspension and a Statement of Charges dated September 12, 1989. The Board signed the Summary Suspension Order dated September 14, 1989.

The Statement of Charges alleged violations of certain provisions of Chapter 378, Connecticut General Statutes. The Board issued a Notice of Hearing dated September 14, 1989 and a Continuance of Formal Hearing dated October 16, 1989. The hearing took place on October 31, 1989 in Room 112, National Guard Armory, Maxim Road, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board made the following findings of fact:

1. David Voegtle, hereinafter referred to as the Respondent, was issued Connecticut Registered Nurse license number R30319 on December 8, 1977.
2. Pursuant to Connecticut General Statutes, Section 4-182(c), the Respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of his license.
3. The Respondent was aware of the time and location of the hearing. Department Exhibit 3 indicates that notice of the location and time of this hearing were delivered by certified mail to the Respondent address of record. Department Exhibit 2 indicates that a Notice of Continuance of Formal Hearing was delivered by certified mail to the Respondent's address of record. The Respondent was not present or represented by counsel at the hearing.
4. The Respondent, while working as a registered nurse at Bradley Memorial Hospital, in Southington, Connecticut, in August, 1989, diverted the controlled substance Meperidine.
5. The Respondent, while working as a registered nurse at

Bradley Memorial Hospital, in Southington, Connecticut, in August, 1989, abused or utilized to excess said medication while on duty.

6. The Respondent, while working as a registered nurse at Bradley Memorial Hospital, in Southington, Connecticut in August, 1989, tampered with stock of the controlled substance Meperidine.

7. The Respondent, while working as a registered nurse at Waterbury Hospital, in Waterbury, Connecticut, in August, 1989, diverted the controlled substance Meperidine.

8. The Respondent, while working as a registered nurse at Waterbury Hospital, in Waterbury, Connecticut, in August, 1989, substituted, or otherwise altered the controlled substance Meperidine.

9. The Respondent, while working as a registered nurse at Waterbury Hospital, in Waterbury, Connecticut, in August, 1989, abused or utilized to excess the controlled substance Meperidine.

10. The Respondent, while working as a registered nurse at Waterbury Hospital, in Waterbury, Connecticut, in August, 1989, failed to properly waste a controlled substance.

11. The Respondent, while working as a registered nurse at Waterbury Hospital, in Waterbury, Connecticut, in August, 1989, failed to properly document a waste of a controlled substance.

DISCUSSION AND CONCLUSIONS

The First Count, Subsection 3a, alleges that the Respondent, while employed as a registered nurse at Bradley

Memorial Hospital, in Southington, Connecticut, during August 1989, diverted the controlled substance Meperidine. A report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, documents that the Respondent admitted this charge (Department Exhibit 2, p. 16).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that while employed as a registered nurse at Bradley Memorial Hospital, the Respondent diverted the controlled substance Meperidine. Specifically, in a report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, it is documented that the Respondent admitted to Drug Control Agent Barry Gordon and Senior Agent Francis Palazzolo that he diverted Meperidine from emergency room stock on the date of August 9, 1989 at Bradley Memorial Hospital (Department Exhibit 2, p. 16). Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2), as specified in the First Count, Subsection 3a.

The First Count, Subsection 3b, alleges that the Respondent, while employed as a registered nurse at Bradley Memorial Hospital in Southington, Connecticut, during August, 1989, abused or used to excess said medication while on duty. A report filed by Drug Control Agent Barry Gordon, dated August

24, 1989, after the investigation was completed regarding the Respondent, documents that the Respondent admitted this charge (Department Exhibit 2, p. 16).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(5), which includes "... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

The Board has determined that while employed as a registered nurse at Bradley Memorial Hospital, the Respondent abused or used to excess said medication while on duty. Specifically, this report documents that the Respondent admitted to Drug Control Agent Barry Gordon and Senior Agent Francis Palazzolo that he was using Meperidine on the night of August 9, 1989 at Bradley Memorial Hospital, while on duty (Department Exhibit 2, p. 16). The act of diversion and use while on duty constitutes abuse or excessive use of said medication. Therefore, the Board concludes that Respondent has violated Connecticut General Statutes Section 20-99(b)(5), as specified in the First Count, Subsection 3b.

The First Count, Subsection 3c, alleges that the Respondent, while employed as a registered nurse at Bradley Memorial Hospital in Southington, Connecticut, during August, 1989, tampered with stock of the controlled substance Meperidine. A report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, documents that the Respondent admitted this charge (Department Exhibit 2, p. 16).

The above referenced conduct is a violation of the Connecticut General Statutes Section 20-99(b)(6) which

includes: "... (6) fraud or material deception in the course of professional services or activities."

The Board has determined that while employed at Bradley Memorial Hospital, the Respondent tampered with the stock of the controlled substance Meperidine. Specifically, this report documents that the Respondent admitted to Drug Control Agent Barry Gordon and Senior Agent Francis Palazzolo that he tampered with the Meperidine dosettes found by Mr. Horvath on August 11, 1989 (Department Exhibit 2, p. 16). Therefore, the Board concludes that Respondent has violated Connecticut General Statutes Section 20-99(b)(6), as specified in the First Count, Subsection 3c.

The First Count, Subsection 3d, alleges that the Respondent, while employed as a registered nurse at Bradley Memorial Hospital, in Southington, Connecticut, during August, 1989, failed to completely or properly or accurately make documentations in the medical or hospital records. The Respondent neither admits or denies this charge.

The above referenced conduct is a violation of the Connecticut General Statutes Section 20-99(b)(2) which includes: "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that insufficient evidence exists to find the Respondent on this charge. Thus, the charge is dismissed.

The First Count, Subsection 3e alleges that the Respondent while employed as a registered nurse at Bradley Memorial Hospital, in Southington, Connecticut, during August, 1989, falsified one or more Controlled Substance Receipt Records. The Respondent neither admits or denies this charge.

The above referenced conduct is a violation of the Connecticut General Statutes Section 20-99(b)(2) which includes: "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that insufficient evidence exists to find the Respondent on this charge. Thus, the charge is dismissed.

The Second Count, Subsection 3a, alleges that the Respondent, while employed as a registered nurse at Waterbury Hospital, during 1989, diverted the controlled substance Meperidine. A report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, documents that the Respondent admitted this charge (Department Exhibit 2, p. 16).

The above referenced conduct is a violation of the Connecticut General Statutes Section 20-99(b)(2) which includes: "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that while employed at Waterbury Hospital, the Respondent, diverted the controlled substance Meperidine. Specifically, in a report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, it is documented that the Respondent admitted to Drug Control Agent Barry Gordon and Senior Agent Francis Palazzolo that he diverted the controlled substance Meperidine from Waterbury Hospital by charting withdrawals of Meperidine for several patients on August 17, 1989 and August 19, 1989, who did not have physicians' orders for Meperidine. He also stated that

all of the Meperidine that he diverted was for his own personal use (Department Exhibit 2, p. 16). Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2), as specified in the Second Count, Subsection 3a.

The Second Count, Subsection 3b, alleges that the Respondent, while employed as a registered nurse at Waterbury Hospital, during 1989, substituted or otherwise altered the controlled substance Meperidine. A report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, documents that the Respondent admitted this charge (Department Exhibit 2, p. 16).

The above referenced conduct is a violation of the Connecticut General Statutes Section 20-99(b)(6) which includes: "... (6) fraud or material deception in the course of professional services or activities...."

The Board has determined that while employed at Waterbury Hospital, the Respondent, substituted or otherwise altered the controlled substance Meperidine. Specifically, in a report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, it is documented that the Respondent admitted to Drug Control Agent Barry Gordon and Senior Agent Francis Palazzolo that he would usually substitute Phenergan for the Controlled Substance Meperidine (Department Exhibit 2, p. 16). Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(6), as specified in the Second Count, Subsection 3b.

The Second Count, Subsection 3c, alleges that the Respondent, while employed as a registered nurse at Waterbury Hospital, during 1989, abused or utilized to excess the controlled substance Meperidine. A report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, documents that the Respondent admitted this charge (Department Exhibit 2, p. 16).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(5), which includes "... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

The Board has determined that while employed at Waterbury Hospital, the Respondent, abused or utilized to excess the controlled substance Meperidine. Specifically, in a report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, it is documented that the Respondent admitted to Drug Control Agent Barry Gordon and Senior Agent Francis Palazzolo that all of the Meperidine he diverted was for his own personal use and in the past few days he was using about 500mg of Meperidine a day (Department Exhibit 2, p. 16). Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(5), as specified in the Second Count, Subsection 3c.

The Second Count, Subsection 3d, alleges that the Respondent, while employed as a registered nurse at Waterbury Hospital, during 1989, failed to properly waste a controlled substance. A report filed by Drug Control Agent Barry Gordon,

dated August 24, 1989, after the investigation was completed regarding the Respondent, documents that the Respondent neither admits or denies this charge (Department Exhibit 2, p. 16).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that while employed at Waterbury Hospital, the Respondent failed to properly waste a controlled substance. Specifically, in a report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, it was found that Proof of Use record #349838 showed two withdrawals of Meperidine 75mg Tubexes by the Respondent on August 19, 1989. One withdrawal was for patient Josephine Lombardi with no time of withdrawal charted. A check of Emergency Room treatment Record of Patient Lombardi does show a physician's order for Meperidine 20mg for her. The Proof of Use record does not indicate a cosigned waste of the remaining 55mg of Meperidine by the Respondent and another witness (Department Exhibit 2, p. 15). Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2), as specified in the Second Count, Subsection 3d.

The Second Count, Subsection 3e, alleges that the Respondent, while employed as a registered nurse at Waterbury Hospital, during 1989, failed to properly document a waste of a controlled substance. A report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, documents that the

Respondent neither admits or denies this charge (Department Exhibit 2, p. 16).

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that while employed at Waterbury Hospital, the Respondent, failed to properly document waste of a controlled substance. Specifically, in a report filed by Drug Control Agent Barry Gordon, dated August 24, 1989, after the investigation was completed regarding the Respondent, it was found that Proof of Use record #349838 showed two withdrawals of Meperidine 75mg Tubexes by the Respondent on August 19, 1989. One withdrawal was for patient Josephine Lombardi with no time of withdrawal charted. A check of Emergency Room treatment Record of Patient Lombardi does show a physician's order for Meperidine 20mg for her. The Proof of Use record does not indicate a cosigned waste of the remaining 55mg of Meperidine by the Respondent and another witness (Department Exhibit 2, p. 16). Therefore, the Board concludes that the Respondent has violated Connecticut General Statutes Section 20-99(b)(2), as specified in the Second Count, Subsection 3e.

The Second Count, subsection 3f, alleges that the Respondent, while employed as a registered nurse at Waterbury Hospital, in Waterbury, Connecticut, during August, 1989, failed to follow a physician's order. The Respondent neither admits or denies this charge.

The above referenced conduct is a violation of Connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that insufficient evidence exists to find the Respondent on this charge. Thus, the charge is dismissed.

The Second Count, Subsection 3g, alleges that the Respondent, while employed as a registered nurse at Waterbury Hospital, in Waterbury, Connecticut, during August, 1989, administered a controlled substance without a physician's order. The Respondent neither admits or denies this charge.

The above referenced conduct is a violation of connecticut General Statutes Section 20-99(b)(2), which includes "... (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions...."

The Board has determined that insufficient evidence exists to find the Respondent on this charge. Thus, the charge is dismissed.

ORDER

It is the unanimous decision of those members of the Board of Examiners for Nursing who were present and voting that for the First Count, Section 3, Subsections (a), (b), and (c); and for the Second Count, Section 3, Subsections, (a), (b), (c), (d), and (e):

1. ~~The license of the Respondent be Revoked.~~

2. The date of this ~~revocation~~ shall commence
on June 1, 1990.

The Board of Examiners for Nursing hereby informs the
Respondent and the Department of Health Services of the State
of Connecticut of this decision.

Dated at Hartford, Connecticut, this 19th day of April,
1990.

BOARD OF EXAMINERS FOR NURSING

By

Lt. Jan M. Murphy, RN

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